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May 14, 2025

***via ECF FILING***

Hon. Judge Nancy E. Brasel  
United States District Court  
300 South Fourth Street  
Minneapolis, MN 55415

RE: *Kimball Area Public Schools, ISD No. 739 v. I.R.M., et al.*  
Court File No. 23-cv-02637 NEB/LIB

Dear Judge Brasel:

We write pursuant to the Court's May 1, 2025 Order (ECF No. 107) to report on the status of the parties' efforts to meet and confer regarding the implementation of the February 16, 2023 Individualized Education Program ("IEP").<sup>1</sup>

The combined effect of the Administrative Law Judge's initial order overriding L.M.'s objections to the District's proposed IEP and this Court's March 31, 2025 order overriding L.M.'s objections to the remaining two components of the District's proposed IEP is that the District may implement the IEP proposed on February 16, 2023 over L.M.'s objections. The District's original request in the underlying due process hearing was "an Order from an administrative law judge determining that the proposed IEP is appropriate and overriding Parent's refusal to consent to proposed IEP." Doc. 19-1 at 17. The Administrative Law Judge determined the District was required to revise its proposed IEP based on the order and, after such revisions, the District "may, if it sees fit, implement the other features" of the proposed IEP. Doc. 19-1 at 3290. This Court then determined that the District was not required to make the revisions ordered by the ALJ. Doc. 99 at 26. However, given the passage of time since that proposal, both parties agree that the goals and objectives in the IEP proposed prior to the due process hearing two years ago are no longer appropriate for I.R.M.

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<sup>1</sup> The IEP at issue is dated January 12, 2023 and was proposed via Prior Written Notice on February 16, 2023. To be consistent with the Court, the District refers to this IEP as the February 16, 2023 IEP.

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I.R.M. is currently served under an IEP dated January 6, 2025, to which L.M. has consented. That IEP includes the District's provision of adult handling services for the service animal and a shortened day, based on language that was initially added to the February 16, 2023 IEP to comply with the ALJ's order.

The IEP Team, including counsel for the District and L.M., met on April 23, 2025 to discuss the Court's Order. The District shared that it does not intend to continue adult support for Delta beginning with I.R.M.'s summer services, and, for the next school year, the District expects I.R.M. to attend school for full days. The remainder of I.R.M.'s January 6, 2025 IEP would continue to be in effect until revised in accordance with the IDEA. In recognition of the potential disruption to I.R.M. when routines and schedules have already been established for nearly two school years, the District unilaterally delayed any changes to I.R.M.'s current IEP until the end of the current school year. The District formally notified L.M. of its intent to modify the existing IEP consistent with the Court's March 31 order on April 28, 2025. L.M., through counsel, indicated her disagreement with the District's plan and her desire for the District to continue to provide adult support for the service animal and for I.R.M. to attend shortened school days.

Given the parties' general agreement that the goals and objectives of the February 16, 2023 IEP do not reflect I.R.M.'s current needs, Counsel jointly requested a two-week extension to provide our report to the Court to explore whether there may be room for agreement. L.M.'s latest position, communicated from her Counsel via email on May 13, is that the District continue to provide I.R.M full-time support for the service animal and I.R.M. continue to attend shortened days. In practical effect, and despite this Court's March 31 decision, L.M.'s position is unchanged from the Administrative Law Judge's 2023 decision.

Because the District's attempts at compromise were unsuccessful, the District now intends to notify L.M. that it will implement the February 16, 2023 IEP consistent with the consent override.<sup>2</sup> Because L.M.'s objections to the IEP have been overridden, the District may unilaterally implement the February 16, 2023 IEP.

Of course, the remedy the District requested two years ago is not desired by either party. Following the District's adoption of the February 16, 2023 IEP, it will re-propose a revised IEP consistent with its April 28, 2025 notice. As required by special education law, I.R.M. will be served under the February 16, 2023 IEP until L.M. consents to changes. It is the genuine hope of the District that it will be able to provide services and supports

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<sup>2</sup> Again, because of the proximity to the end of the school year, the District has voluntarily determined it will not implement the 2023 IEP until after the end of the 2024-25 school year.

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appropriate to I.R.M.'s current needs, and consistent with this Court's order, for the upcoming school year.

Very Truly Yours,

*/s/ Liz J. Vieira*

Elizabeth J. Vieira  
William M. Seiler